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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/820,316

04/07/2004

Syed F.A. Hossainy

50623.285

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7590

12/11/2007

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EXAMINER

LIN, JAMES

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

12/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/820,316	Applicant(s) HOSSAINY ET AL.	
	Examiner Jimmy Lin	Art Unit 1792	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1,5,8,9,16,18,19,57,59-62 and 65.
 Claim(s) withdrawn from consideration: 6,7,11,12,14,17,20,58,66 and 69-70.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

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Box 7:

Claims 21-31, 67 and 68 have been cancelled.

Rejections of claims 57 and 59-61 over Barry '358 and Reiss '963 have been withdrawn.

However, the claims are still rejected over Lim '632, Barry, and Reiss.

Box 11:

Applicant's arguments filed 11/26/2007 have been fully considered but they are not persuasive.

Claim 1 as rejected over Reiss '963, and Reiss '963 with Barry '358:

On pg. 8, Applicant argues that it is unclear how "one molecule of fluid more than an intended use configuration" would be consistent with a definition based on the diameter of the balloon, specifically "any diameter above intended configuration". However, it is first noted that claim 1 does not use the terms "over or hyperinflation" as used in the specification.

Nevertheless, the diameter of the balloon is directly related to the amount of gas in the balloon, and an intended expanded configuration of the balloon *borders* an inflated state greater than an expanded configuration. Although the two inflated states are distinct, only one molecule of fluid can transition the balloon from one inflated state to the other. This one molecule of fluid would necessarily have some effect on the diameter of the balloon. It is in this manner that the two inflation states are so close that one of ordinary skill in the art would have expected the balloons to have similar properties at the borderline of inflation states.

On pg. 8, Applicant cites U.S. Patent No. 5,585,926 as evidence that an over-inflated or hyper-inflated state is distinct from an intended use state. However, the '926 patent is directed to a document reading apparatus capable of picking up image data of documents and has no mention of any sort of balloon, much less anything about inflation states. It is unclear as to which passages Applicant is referring to as evidence.

Claim 57 as rejected over Lim '632 and Barry '358:

Applicant argues on pg. 10 that Lim has no teaching or suggestion of a membrane with pores formed in the membrane. However, Applicant is directed to paragraph [0021], wherein Lim teaches that a compounded silicon polyurethane/porogen is melt extruded and the porogen is

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later extracted to form a microporous material. This material can be used to form a balloon of a catheter [0022]. Pores were formed in this material to make the balloon. Thus, Lim teaches all the limitations of the claim.

Applicant's arguments, see pg. 9-10, filed 11/262007, with respect to claim 57 have been fully considered and are persuasive. The 35 U.S.C. 102(b) rejection of the claim over Barry '358 has been withdrawn.


Applicant's arguments, see pg. 9-10, filed 11/262007, with respect to claims 59-61 have been fully considered and are persuasive. The 35 U.S.C. 103(a) rejections of the claims over Barry '358 in view of Reiss '963 have been withdrawn.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy Lin whose telephone number is 571-272-8902. The examiner can normally be reached on Monday thru Friday 8AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER